IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 241 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ALI ASGAR JOABBHAI GHEEWALA

Versus

BAI JANAB W/O ALI ASGAR JOABBHAI GHEEWALA

Appearance:

MR MUKESH R SHAH for Petitioner

MR DF AMIN for Respondent No. 1

MR SS PATEL, APP for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 29/06/2000

ORAL JUDGEMENT

Heard learned Advocate Mr. M.R. Shah for the petitioner, learned Advocate Mr. D.F. Amin for the respondent no.1 and learned A.P.P. Mr. S.S. Patel for the respondent no.2.

#. The petitioner has challenged the order dated 24-4-2000 passed by the learned Sessions Judge, Godhra in the proceedings of Criminal Revision Application no.36/2000.

That a criminal complaint in respect of offences made punishable under Secs.498A and 304 (B) read with Sec.114 was filed by the respondent no.1 against the present petitioner at Lunawada Police Station, District Panchmahals. The petitioner was arrested in connection with CR no.24/2000 registered at Lunawada Police Station on the basis of the aforesaid complaint. Vide order dated 10-4-2000, the learned J.M.F.C., Lunawada granted bail to the petitioner on condition that petitioner shall furnish a bond of Rs.5000/- and surety for the like amount and shall not leave the territory of India without the permission of the Court as well as get his presence marked with the Police Station on the first Monday of each month. The petitioner was also directed to refrain from tampering with the witnesses of the prosecution.

Against the said order, Criminal Revision Application no.36/2000 was filed by the present respondent no.1 in the Court of Sessions Judge, Panchmahals which was transferred to the Court of Addl. Sessions Judge, Godhra who vide order dated 24-4-2000 modified the terms of bail order and directed the present petitioner to deposit his passport within 48 hours in the Court of learned J.M.F.C., Lunawada and directed that the said passport be placed in safe custody.

#. The petitioner after depositing the passport has filed the present petition to challenge the said order and has also made a request that as per the terms of Visa granted to the petitioner by the Emigration Authority of Sharjah, the petitioner has to get the Visa renewed at the interval of six months. That the said period of six months expires on 13th July, 2000. Under the circumstances, if the petitioner does not get the Visa renewed on or before 13th July, 2000, the petitioner would be deprived of the said Visa , and thereby, the petitioner has urged that modification in the order passed by the Addl. Sessions Judge in the proceedings of Criminal Revision Application no.36/2000 is also necessary because unless the passport is returned to him he cannot visit Sharjah for renewal of his Visa.

#. During the hearing of the matter, the parties negotiated and on suggestion of the Court, the respondent no.1 could not dispute the conditions suggested by the

Court and accordingly the impugned order dated 24-4-2000 passed by the Addl. Sessions Judge, Godhra in the proceedings of Criminal Revision Application no.36/2000 is modified as under:

1. The passport deposited by the petitioner in the Court of J.M.F.C., Lunawada in respect to proceedings of C. R no.II 24/2000 shall be returned to the petitioner on the following conditions:

(a) The petitioner shall deposit Rs.5000/-in cash in the Court of learned J.M.F.C., Lunawada by way of security, furnish a surety of Rs.10,000/- and execute a fresh bond as per the condition of bail granted vide order dated 10-4-2000.

(b) The petitioner shall invest in a fixed deposit Rs.7500/-in his name for a period of six months and deposit the receipt in the Court of learned J.M.F.C., Lunawada within a period of one week from the date of this order.

(c) The petitioner shall file undertaking before this Court that before the expiry of the period of six months from the date of leaving India, the petitioner shall return to India and appear before the Court of J.M.F.C., Lunawada on a date so fixed by the Court in the proceedings arising from CR no.II 24/2000 and again deposit the passport as per the original terms of order dated 24-4-2000.

(d) The petitioner shall also undertake to discharge and pay the amount from the fixed deposit receipt deposited with the Court of J.M.F.C., Lunawada in respect to any amount ordered to be paid to the present respondent by a competent Court towards the maintenance payable to the respondent no.1 by the petitioner in the proceedings of Criminal Misc. Application no.217/2000 pending in the Court of J.M.F.C., Godhra.

(e) The petitioner shall make arrangement to represent himself in both the proceedings initiated by the respondent no.1 against

the petitioner through Advocate and claim appropriate exemption and shall instruct the Advocate to proceed with the matters as directed by the respective Court. Furthermore, the petitioner shall furnish the address of his whereabouts in Sharjah to the concerned Courts.

The passport deposited by the petitioner in the Court of J.M.F.C., Lunawada should be released on production of certificate issued by the registry of this Court in respect to filing of the undertaking under this order.

The petitioner shall be at liberty to claim his passport again after it is re-deposited in the Court in compliance of the above stated terms before the lapse of further period of six months.

Direct service is permitted.

(A.K.Trivedi,J.)

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